

GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T

Public Servants – Horticulture Department – Departmental proceedings initiated against Sri M.V.Ramana Prasad, Assistant Director of Horticulture(Retired) for certain allegation of irregularities in purchase of coconut seedlings besides disobeying the instructions of superior officers during his tenure at Chittoor from October, 1992 to June, 1994 – Awarding of penalty of withholding of 5% pension for a period of One year – Orders – Issued.

AGRICULTURE & COOPERATION (VIG.II) DEPARTMENT

G.O.Rt.No. 1339

Dated: 20-09-2010

Read the following:-

1. From DoH, Hyd. Lr.No.Estt.(4)2330/95, dt.08-09-1995.
2. GORt.No.815, Agri. & Coop.(Horti.)Dept., dt.21-08-1996.
3. GORt.No.311, Agri. & Coop.(Horti.)Dept., dt.07-12-2001.
4. From APAT order dt.23-12-2004 in O.A.No.1570/2002.
5. From High Court of A.P. order dt.31-07-2006 in W.P.No.23772/2005.
6. Govt.Memo No.2093/Vig.II(2)/2002-13, dt.31-03-2007.
7. GORt.No.961, Agri. & Coop.(Vig.II)Dept., dt.06-08-2008.
8. From Addl.DoH & Inquiry Officer, O/o CoH, Hyd. Inquiry Report, dt.31-12-2008.
9. Govt.Memo 2093/Vig.II(2)/2002-17, dt.22-05-2009.
10. From Sri M.V. Ramana Prasad, ADH(Retired), Representation, dt.08-07-2009.
11. Govt.Memo No.2093/Vig.II(2)/2002-18, dt.25-11-2009.
12. From Sri M.V. Ramana Prasad, ADH(Retired), Representation, dt.07-01-2010.
13. Govt.Letter No.2093/Vig.II(2)/2002-1, dt.04-06-2010.
14. From Secretary, A.P.P.S.C., Hyd. Lr.No.883/RT-I/1/2010, dt.21-07-2010.

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O R D E R:

It was brought to the notice of the government that Sri M.V.Ramana Prasad, while working as Assistant Director of Horticulture, Chittoor during October, 1992 to June, 1994 had allegedly committed certain irregularities in purchase of coconut seedlings besides disobeying the instructions of superior officers. Accordingly, Government initiated disciplinary proceedings by framing (6) six articles of charges against above Accused Officer vide reference 2nd read above.

2. After following the due procedure and after obtaining the concurrence of A.P. Public Service Commission, Government awarded a penalty of ‘Stoppage of two annual grade increments with cumulative effect besides recovery of an amount of Rs.7,32,408/-“ against the Charged Officer Sri M.V.Ramana Prasad, Assistant Director of Horticulture vide reference 3rd read above.

3. Aggrieved by the above penalty, Sri M.V.Ramana Prasad, Assistant Director of Horticulture filed an O.A.No.1570/2002 before the Hon’ble A.P. Administrative Tribunal. The A.P.Administrative Tribunal, in its order dt.23-12-2004 has set aside the orders issued in the reference 3rd read above.

4. As requested by the Government, the Commissioner of Horticulture, Hyderabad filed W.P.No.23772/2005 before the Hon’ble High Court of A.P. against the orders dt.23-12-2004 of the A.P. Administrative Tribunal in O.A.No.1570/2002. The Hon’ble High Court of A.P. in its judgment dt.31-07-2006 in the above W.P.No.23772/2005 delivered the following orders:-

“.....On a bare reading of the aforesaid provisio, it clearly mandates a comprehensive enquiry to be conducted and where necessarily the oral and the documentary evidence to be taken in support of the articles of charge and also due examination of the witnesses on behalf of the Presenting Officer, who has been necessarily permitted to be cross-examined by the delinquent. The procedure includes re-examination of the witnesses and again cross-examination if it warrants. It further contemplates that the inquiring authority has to give opportunity to the delinquent for inspection of the record and also for production of any evidence on his behalf.

Thus, the entire inquiry procedure is comprehensive enough to enable both the sides to lead evidence in support and in rebuttal and without which, the question of coming to any conclusion does not arise. In this case, admittedly no such enquiry was conducted, no evidence was produced on behalf of the Department nor there is any attempt to allow such cross-examination by the respondent. Even the respondent is not permitted to produce any evidence on his behalf in rebuttal that apart the application field by the respondent for perusal of the record and supply has remain un-considered nor there is any such opportunity provided even for perusal. Above, all the Enquiry Officer did not fix any particular date of hearing either for holding such enquiry or for taking evidence or for perusal or for furnishing of documents much-less for production of any evidence on behalf of the respondent. On the fact of it, the entire procedure as adapted to is in the teeth of the mandate as contemplated there-under. It is needless to reiterate that when the statutory rules do contemplate such comprehensive enquiry, the same cannot be given go by and no employee can be permitted to mulct against any imputation or any finding thereon. The due process as contemplated there-under is only on the lines of the observation of the principles of natural justice before a person is condemned which cannot be found fault with nor there be any escape either way. We are in entire agreement with the reasons as given the Tribunal and the entire impugned action as rightly held is in utter violation and disregard to the mandatory procedure as contemplated there-under. Hence, we do not find any merits in the above Writ Petition. The W.P. is accordingly dismissed".

5. In the light of the above orders of A.P.Administrative Tribunal and the High Court of A.P., Government decided to proceed further in the matter by conducting regular inquiry from the stage at which the proceedings got vitiated and to appoint one of the Additional Director of Horticulture as regular Inquiry Officer to conduct the inquiry as the earlier Inquiry Officer was already retired from service. Accordingly, Government has appointed Additional Director of Horticulture, O/o Commissioner of Horticulture, Hyderabad as inquiry officer to enquire into the charges framed against the above Charged Officer vide reference 7th read above.

6. After conducting the regular inquiry, the Additional Director of Horticulture & Inquiry Officer has submitted the Inquiry Report concluding that the charges-1 & 5 are held proved and the charges-2, 3, 4 & 6 are held not proved against Sri M.V.Ramana Prasad, Assistant Director of Horticulture, who retired from Public Service on superannuation on 30-04-2008 vide reference 8th read above.

7. In the reference 9th read above, while communicating a copy of Inquiry Report, to the Charged Officer Sri M.V.Ramana Prasad, Assistant Director of Horticulture (Retired) was directed to submit his representation, if any, on the findings of the Inquiry Officer. Accordingly, the Charged Officer has submitted his representation on the findings of the Inquiry Officer and requested to drop further action against him.

8. Government, after careful examination of the matter, have provisionally decided to impose a penalty of withholding of 10% pension permanently against Sri M.V.Ramana Prasad, Assistant Director of Horticulture(Retired) under Rule 9 of the A.P. Revised Pension Rules, 1980, as the charges-1 & 5 were held proved in a regular inquiry. Accordingly, a Show Cause Notice was issued to Sri M.V.Ramana Prasad, Asst.Director of Horticulture(Retired) with a direction to show-cause as to why the penalty of withholding of 10% pension permanently should not be imposed against him for the Charges-1 & 5 were held proved against him.

9. In the reference 12th cited, Sri M.V.Ramana Prasad, Asst.Director of Horticulture(Retired) has submitted a representation to the Show Cause Notice and requested to drop further action against him.

10. Government, after careful examination of the entire matter with reference to record of inquiry and representation submitted by the Charged Officer to the Show Cause Notice, have decided to impose a penalty of withholding of 5% pension for a period of one year against Sri M.V.Ramana Prasad, Asst.Director of Horticulture(Retired) under Rule 9 of A.P.Revised Pension Rules, 1980. Accordingly, Government have consulted the A.P.Public Service Commission for their concurrence vide reference 13th read above.

11. In the reference 14th read above, the A.P.Public Service Commission concurred with the decision of the Government to impose a penalty of withholding of 5% pension for a period of one year against Sri M.V.Ramana Prasad, Asst.Director of Horticulture (Retired) under Rule 9 of A.P.Revised Pension Rules, 1980.

12. Government, after careful examination of the entire matter, have decided to impose a penalty of withholding 5% pension for a period of one year against Sri M.V.Ramana Prasad, Asst.Director of Horticulture (Retired) under Rule 9 of A.P.Revised Pension Rules, 1980.

13. Accordingly, Government hereby impose a penalty of withholding 5% pension for a period of one year against Sri M.V.Ramana Prasad, Asst.Director of Horticulture (Retired) under Rule 9 of A.P.Revised Pension Rules, 1980.

14. The Director of Horticulture, Hyderabad shall take necessary action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**A.K. GOEL
A.P.C. & SPECIAL CHIEF SECRETARY TO GOVERNMENT**

To

Sri M.V.Ramana Prasad, Asst.Director of Horticulture (Retired)
(Through: The Director of Horticulture, A.P., Hyderabad)

Copy to:-

The Director of Horticulture, A.P., Hyderabad.
The Secretary, A.P.Public Service Commission, Hyderabad.
Sc/Sf.

// FORWARDED :: BY ORDER //

SECTION OFFICER